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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

TOTAL PETROCHEMICALS USA, INC.

Complainant,

v.

**CSX TRANSPORTATION, INC; MOHAWK,
ADIRONDACK & NORTHERN RAILROAD
CORP.; and R.J. CORMAN RAILROAD
COMPANY (MEMPHIS)**

Defendants.

Docket No. NOR 42121

ENTERED
Office of Proceedings
FEB - 2 2011
Part of
Public Record

FOURTH MOTION TO DISMISS COMPLAINT

TOTAL PETROCHEMICALS USA, INC. ("TPI") hereby moves to dismiss the Complaint in the above-captioned proceeding against the Mohawk, Adirondack & Northern Railroad Corporation ("MHWA"). TPI has reached a settlement with MHWA. TPI will shortly file a Fourth Amended Complaint which reflects the removal of several short line defendants within the past two weeks and the revised CSXT tariff rates that TPI has challenged in this proceeding.

TPI requests that the Board dismiss the Complaint against MHWA with prejudice. In support of this Motion, TPI states that dismissal will simplify this proceeding by reducing the number of parties involved. Additionally, CSXT has previously stated that it would not object to dismissal of defendants and/or lanes. See letter from CSXT counsel to the Board (filed Oct. 29, 2010).

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jeffrey O. Moreno", is written over a horizontal line.

Jeffrey O. Moreno

David E. Benz

Thompson Hine LLP

1920 N Street, N.W., Suite 800

Washington, D.C. 20036

(202) 331-8800

February 2, 2011

CERTIFICATE OF SERVICE

I hereby certify that this 2nd day of February 2011, I served a copy of the foregoing upon Defendants in the following manner and at the addresses below: •

Via e-mail and first-class mail to:

<p>G. Paul Moates Paul Hemmersbaugh Sidley Austin LLP 1501 K Street, NW Washington, DC 20005</p> <p>pmoates@sidley.com phemmersbaugh@sidley.com</p> <p><i>Counsel for CSXT</i></p>	<p>John Herbrand General Counsel Mohawk, Adirondack & Northern Railroad Corp. 1 Mill Street, Suite 101 Batavia, NY 14020</p> <p>jsh@herbrandlaw.com</p>
<p>Ronald A. Lane Fletcher & Sippel LLC 29 N. Wacker Drive, Suite 920 Chicago, Illinois 60606-2832 Tel: (312) 252-1503 Fax: (312) 252-2400 e-mail: <u>rlane@fletcher-sippel.com</u></p> <p><i>Counsel for R.J. Corman Railroad Company (Memphis)</i></p>	



Jeffrey O. Moreno